

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C.

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)

The Ohio Public Service Commission's)
Petition for Delegation of Additional)
Authority to Implement Number)
Conservation Measures)

CC Docket No. 96-98
NSD File No. L-99-74

COMMENTS OF SBC COMMUNICATIONS INC.

I. INTRODUCTION AND SUMMARY

SBC Communications Inc., on behalf of itself and its subsidiaries, (collectively referenced as "SBC") files its Comments supporting approval, subject to certain conditions, of the Ohio Public Service Commission ("PUCO") Petition seeking authority to implement, on a local basis, certain number conservation measures including number pooling. The PUCO specifically requests authority to:

1. enforce current standards for number allocation, or to set and enforce new standards;
2. order return of unused, improperly used, reserved, and/or protected NXX codes;
3. order efficient number use practices within NXX codes;
4. investigate and order additional rationing measures;
5. require number pooling where and when the state determines it to be appropriate; and
6. implement technology- specific or service-specific overlays.

In light of the Commission's recent approval of similar petitions filed by several state commissions, SBC expects that the Commission will grant to the PUCO the same discretion that it has previously delegated to the other state commissions. This unfortunate step is being taken by the Commission in response to an urgent need for more effective number utilization at the local level prior to the adopt of a national number optimization plan. But, these state petitions underscore the critical need for adoption of a national plan as proposed in the Commission's Number Portability Docket.¹ While granting interim local discretion may be expedient, the superior solution is for the Commission to promptly adopt one integrated national numbering plan that provides to the states and the industry the tools they need to implement and enforce true number optimization on an integrated and coordinated basis, nationwide.

SBC urges that if the Commission approves the PUCO Petition, it provide guidance to the PUCO on actions it should take that are consistent with the national plan. To that end, SBC proposes four actions that the PUCO should immediately undertake that will significantly improve number local utilization and prepare for pooling, but which are consistent with and in support of a sound national plan. In particular, in Comments filed by Ameritech (now a subsidiary of SBC), it proposed a methodology for conducting an NPA-by-NPA pooling analysis that SBC proposes be adopted as a national model.

SBC also proposes that the Commission clarify that, as it has previously held, code rationing is not a substitute for proper code relief. For this reason, the

¹ Number Resource Optimization; CC Docket No. 99-200, RM No. 9258, NSD File No. L-99-17, NSD File No. L-99-36 ("Number Optimization Docket").

Commission should again decline to grant state authority to impose rationing prior to adoption of an NPA relief plan. More importantly, the Commission must enforce that prohibition and ensure that all states comply with its policy.

The Commission should also continue to forbid service- and technology-specific NPA overlays. The Commission has previously held that such overlays are discriminatory. Equally as important, they are a wasteful and ineffective NPA relief option. The issue of service- and technology specific overlays is pending in the Number Optimization Docket and should be resolved in that proceeding.

Finally, the Commission should reiterate that when a state orders local numbering measures, the Commission or the state commission must establish, in parallel, a competitively-neutral mechanism for recovery of the resulting costs. The Commission should either adopt a cost-recovery mechanism in its order, or require that the PUCO file one prior to implementing its plan.

II. ARGUMENT

A. The Commission Must Adopt A National Plan As Soon As Possible.

SBC shares the number conservation objectives of the PUCO, and likewise believes that more effective number utilization is an urgent imperative, both in Ohio and nationally. SBC also agrees with the PUCO's assessment of the underlying causes of the current numbering utilization crises in Ohio. In fact, the SBC and Ameritech Comments and Reply Comments filed in the Number Optimization Docket support most of the measures the PUCO seeks to implement. Equally as important, these

pleadings strongly advocated that these measures be immediately implemented and rigorously enforced.

Nonetheless, SBC does not believe that for the sake of expediency the Commission should abdicate its statutory numbering jurisdiction, or give up on the concept of one integrated national numbering plan. If it acts promptly in the Number Optimization Docket, the Commission can still assume its proper leadership role, while at the same time providing the relief needed by the states. The PUCO Petition, like the other similar state petitions, arises because the Commission has not yet acted. The Commission should remedy that omission now.

The Commission cannot have an effective national numbering policy if it delegates to the states the authority to take local actions that are potentially in conflict with national rules and standards. Although in the absence of national action, the granting of these petitions is viewed by the state commissions as necessary, the resulting excessive local discretion creates a significant risk that carriers will need to comply with multiple conflicting numbering plans – one federal plan and one for each state in which they do business.

Equally as destructive, ad hoc local numbering planning provides no coordination of implementation dates between states, which can lead to conflicting and overlapping implementation in different states, thereby exhausting the industry's limited numbering resources and diverting them from the national projects. Moreover, carriers may need to comply with interim or less than optimal requirements. For instance, interim pooling deployments may force certain carriers to undertake costly enhancements to their local number portability ("LNP") architecture to add capacity

that might otherwise not be needed if the Efficient Data Representation ("EDR") capability inherent with national pooling were available. Moreover, implementing local plans in advance of the national requirements creates a significant risk that carriers will need to constantly adjust and re-adjust to ever changing state/federal requirements, at great cost and significant customer confusion.

The industry has limited resources available to address numbering issues and those resources should not be diverted to implementing multiple local numbering plans or duplicative pooling trials. Rather, these resources should be focused on implementing one integrated and coordinated plan.

B. The Commission Can Authorize Interim Local Actions That Enhance Number Utilization And Prepare For Pooling Without Conflicting With The National Plan.

SBC shares the PUCO's belief that prompt action improving number utilization is required. Toward that end, the SBC and Ameritech Comments in the Number Optimization Docket proposed concrete measures that the Commission can promptly authorize consistent with its number optimization objectives. Moreover, the Ameritech Reply Comments (at 21) in the same docket proposed number of specific interim steps that the Commission could immediately authorize that would enable the states and the industry to significantly improve local number conservation. Equally as important, these steps are consistent with existing numbering rules and standards and will facilitate thousands-block pooling if it is implemented.

In summary these interim actions include:

1. authorize general overlays without mandatory 10-digit dialing;
2. impose mandatory number block administration;
3. compel aggressive NXX reclamation and "for cause" audits; and
4. require mandatory "COCUS" filings as a prerequisite for NXX assignment.

In preparation for pooling, the PUCO could also launch an NPA-by-NPA investigation into the potential consumption rate for both full NXX codes and thousands-blocks in each of those NPAs. Those estimates could then be compared with the supply of available numbering resources to determine if pooling would significantly delay NXX code exhaust. Absent evidence that pooling will extend the life of a given NPA by at least 2 years, pooling should not be implemented. This analysis would, thus, form the basis of the cost/benefit analysis envisioned by the Commission in its Number Optimization NPRM.² A more detailed plan for this analysis is set forth in Attachment A.

C. The Commission Should Continue To Prohibit Code Rationing Prior To Adoption Of A NPA Relief Plan.

The PUCO (at 6) seeks authority to "investigate and order number rationing if an area code nears a jeopardy situation." The purpose of the request is to "allow rationing to be implemented sooner than under current guidelines in an attempt to help delay the need for area code relief." The Commission should reject this request and

² at para.7, 31-34.

reiterate that states may not impose rationing prior to adoption of an NPA relief plan. Equally as important, the Commission must enforce that ban.³

Code rationing does not delay the need for relief -- it simply masks the shortage. Carriers are still denied access to the numbers they need to serve customers, albeit under a nondiscriminatory lottery process. As a result, they are required to depend on pure luck to obtain the numbers they need. The Commission has, for these good reasons, rejected the use of code rationing as a vehicle to delay NPA relief because of its potential adverse impact on availability of numbering resources to customers and carriers.

In two recent decisions, the Commission specifically declined to permit state commissions to "adopt rationing measures prior to having a specific plan for area code relief." The Commission refused to allow rationing to become a form of on-going number conservation, but determined instead that "rationing of NXX codes should only occur when it is clear that an NPA will run out of NXX codes before implementation of a relief plan." As a result, the Commission found that a state commission "may order and revise rationing processes where it has ordered area code relief and established a relief date and the industry was unable to reach consensus on a rationing plan." But the Commission specifically decline to grant "broad authority . . . to adopt rationing

³ Absent effective enforcement of the Commission's policy, states may abandon needed NPA relief planning activities in the vain hope that code rationing, when combined with pooling, can save an NPA that is in extreme jeopardy.

measures prior to having decided on a specific plan for area code relief.” The Commission reasoned that “[u]nder no circumstances should consumers be precluded from receiving telecommunications services of their choice for want of numbering resources.”⁴

D. The Commission Should Continue To Prohibit Service- And Technology-Specific Overlays.

Both the SBC and Ameritech Comments and Reply Comments filed in the Number Optimization Docket explain why the Commission should continue to prohibit service- and technology-specific NPA overlays. SBC will not repeat that discussion here, but rather incorporates its by reference.

In summary, service- and technology specific overlays are discriminatory, waste limited numbering resources, and are not sustainable. They place very significant disproportionate burden on a small group of customers and carriers. They also constitute an inefficient use of number resources, since entire codes are dedicated to a very limited use and are not available for other services or technologies, even though a vast quantity of unused codes may be available. Moreover, with the advent of number portability, service-and technology-specific overlays are not sustainable, since numbers from existing and overlay codes will be ported between carriers using different

⁴ New York State Department of Public Service Petition for Additional Delegated Authority to Implement Number Conservation Measures; CC Docket No. 96-98; NSD File No. L-99-21; Order; released September 15, 1999 (“New York Numbering Order”) at paras. 8 and 32. See also, California Public Utilities Commission Petition and NXX Code Conservation Measures; CC Docket No. 96-98, NSD File No. L-98-136; Order; released September 15, 1999 (“California Numbering Order”) at 8, 9; and Petition for Declaratory Ruling and Request for Expedited Action on the July 15, 1997 Order of the Pennsylvania Public Utility Commission Regarding Area Codes 412, 610, 215, and 717; Implementation of the Local Competition Provisions of the Telecommunications Act of 1996; CC Docket No. 96-98, NSD File No. L-97-42; Memorandum Opinion and Order and Order on Reconsideration; released September 28, 1998 (“Pennsylvania Numbering Order”) at 26.

technologies and providing different services. Further, such overlays are not an appropriate interim measure, since there is no feasible way to undo them once they are in place or to compensate affected customers for the burden they had to incur.

The better course is for the PUCO to order a general overlay in those areas where it is considering a service- or technology-specific overlay, and for the Commission to address the issue of service- and technology-specific overlays in the Number Optimization Docket. In this regard, as argued in the Ameritech Comments and Reply Comments in the Number Optimization Docket, the Commission can facilitate the adoption of general overlays where they are the optimal NPA relief measure, by suspending the requirement that a general overlay include mandatory 10-digit dialing. This requirement is no longer needed, if it ever was, to protect competitors or customers, because number portability and number pooling assure that new carriers will continue to have access to numbers in both the existing and overlay codes.

E. The Commission Should Provide For Competitively-Neutral Cost Recovery.

Section 251(e) of the Telecommunications Act of 1996 vests in the Commission “exclusive jurisdiction” over numbering in the United States. Section 251(e)(2) provides that “the costs of establishing numbering administration . . . shall be borne by all telecommunications carriers on a competitively neutral basis.” The statute makes no distinction between number administration adopted at the federal or state level, nor does it relieve the Commission of its responsibility to provide for competitively-neutral cost

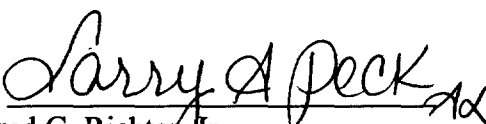
recovery simply because the Commission has delegated some of its authority to the states.

In its approval of similar petitions filed by the other states, the Commission has left a great deal of ambiguity in its instructions to the state commissions on the cost-recovery plans they must adopt. If the Commission approves the PUCO Petition, it should rectify this omission by either adopting a competitively-neutral cost-recovery plan in its Order, or providing detailed instructions to the PUCO on the methodology and mechanism it must employ. The PUCO should then be required to file with the Commission for public comment a plan complying with the Commission's instructions prior to implementation of the PUCO's interim plan.

III. CONCLUSION.

For the above reasons, if the Commission grants the Petition, it should do so with the noted exceptions and modifications, and should promptly address the matters raised in the Petition on a uniform national basis in the Number Optimization Docket.

Respectfully submitted,

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ATTACHMENT A

Ameritech believes that a careful analysis can be conducted of the potential benefits of thousands-block pooling in an NPA prior to any decision on how or if it should be deployed. The analysis can be conducted through a five-step process.

1. Determine the number of rate centers/districts within each NPA that would comprise the pool(s).
2. Ascertain the number of blocks within each (pooling) carrier's own inventory that could be eligible for donation to the pools.
3. Request and aggregate quarterly block forecasts, by rate center/district, from each carrier that could participate in pooling, and to compare those forecasts with the block resources available to determine when and how many additional NXX codes must be assigned to replenish the pools.
4. Determine the number of non-pooling carriers and their quarterly NXX code requirements.
5. Estimate the number of new carriers that will enter the market within those NPAs, taking into account that they will require at least one new NXX (for LRN assignment) and one additional thousands-block for each rate center/district served.

Since NPA exhaust is driven by the exhaust of assignable NXX codes, the aforementioned five step process would provide the needed NXX code consumption rate (NXX codes needed by non-pooling carriers + NXX codes needed to maintain the pools + NXXs needed for LRN assignment to new entrants), which can then be compared with the remaining unassigned NXX codes to estimate the NPA exhaust date.

-CERTIFICATE OF SERVICE

I, Grace Germain, do hereby certify that a copy of the Comments of SBC Communications Inc. has been served on the party of record, via first class mail, postage prepaid, on this 20thth day of October 20, 1999.

By: Grace Germain
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